

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEANDER A. HAGGAN,

Defendant.

4:11-CR-3062

MEMORANDUM AND ORDER

This matter is before the Court on the defendant's second motion for a reduced sentence ([filing 91](#)) pursuant to the [First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 \(2018\)](#). The defendant's motion will be denied. As the Court has previously explained to the defendant, he is not eligible for relief under the First Step Act, because he was already sentenced under the law to which the First Step Act simply gave retroactive effect. [Filing 90](#). And the defendant's contentions to the contrary are simply incorrect.

For instance, the defendant asserts that under current law, he would no longer be subject to a 10-year mandatory minimum sentence. [Filing 91 at 1](#). That's wrong. The Court specifically found the defendant responsible for 25 ounces of cocaine and 25 ounces of cocaine base—or, 708.75 grams of each substance. [Filing 77 at 73](#). That's a lot, and remains *easily* subject to a 10-year statutory mandatory minimum sentence. *See* [21 U.S.C. § 841\(b\)\(1\)\(iii\)](#). Nor do the defendant's *Apprendi*- and *Alleyne*-based arguments hold water, because he was charged with and pled guilty to distributing more than 280 grams of a mixture containing cocaine base. [Filing 1](#); [filing 52 at 16-18](#). His plea alone subjected him to a 10-year mandatory minimum sentence, so the facts found at sentencing did not affect the mandatory minimum, and did not need to be

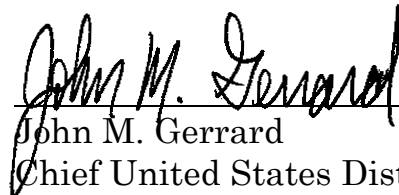
found by a jury. See *United States v. Wimberly*, 529 F. App'x 525, 526 (6th Cir. 2013); see also *United States v. Bennett*, 765 F.3d 887, 897 (8th Cir. 2014).

In other words, the defendant is advised—again—that he is not entitled to relief under the terms of the First Step Act.

IT IS ORDERED that the defendant's motion for reduction of sentence ([filing 91](#)) is denied.

Dated this 25th day of June, 2019.

BY THE COURT:

  
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John M. Gerrard  
Chief United States District Judge